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REVIEWS OF BOOKS

The Evolution of the Aryan. By RUDOLPH VON IHERING. Translated from the German by A. DRUCKER, M. P. (New York: Henry Holt and Co. 1897. Pp. xviii, 418.)

CLASSIFYING the one hundred or more treatises since Omalius d'Halloy's first attempt in 1848, which have endeavored to throw light upon the origin of the modern peoples of Europe, we distinguish four clearly marked groups. The earliest was entirely historical, deriving its conclusions from classical literature and the testimony of the ancients; to this succeeded the methods of the philologists, led by Max Müller; then the ethnographers, Bertrand, Reinach, Montelius and their fellows, concerning themselves primarily with the study of arts and customs; and finally the physical anthropologists and prehistoric archaeologists, who deal in terms of head-form, color of hair or eyes, stature, and other purely physical traits. Little by little, as each mode of research has contributed its quota of information, the problems at issue have likewise become differentiated. From a primary confusion of race, culture, and language, we have learned to distinguish each in turn as to its origin and development, apart from the others.

The anthropologists of to-day recognize a complexity of racial origins which was unsuspected a generation ago. Diversity of physical types, each possessed of a distinct racial history, is as fully proved as is the immigration of Europe's civilization, independently of any particular racial type, from some centre toward the south-east. And now, Sergi and others, not content with this differentiation, are tracing an origin, development and immigration of language bearing little relation to either culture or physical types. Certain it is that the word *Aryan* is peculiarly a linguistic term, appertaining to a family of languages; possibly to a group of cultures; but absolutely worthless as designating any racial type. Unless these points be firmly grasped, the entire significance of this uncompleted and posthumous work of perhaps the greatest of German jurists is entirely lost. It is a misnamed book, abominably translated, which, however, contains certain brilliant interpretations of the primitive legal customs of the Semitic and Aryan-speaking peoples of the prehistoric period. More than this of direct contribution to knowledge is utterly lacking. Nay, the learned author, in his ignorance of the results from any other than the philological field, and in the sweeping character of his generalizations, has rather contributed to retard the normal differentiation of problems which has happily been taking place of late. The one justification for the volume is its critical treatment of the legal customs of Babylonia as preserved in its brick tablets. These are of conspicuous interest in any history of civilization. For all other customs, arts or

details of prehistoric culture the student will more profitably turn to Schrader's *Prehistoric Antiquities of the Aryan Peoples*, or to Canon Taylor's admirable little *Origin of the Aryans*. In all save the legal sections the work is so obviously out of touch with the most recent literature upon the subject that detailed discussion of its conclusions is unnecessary.

One feature of this volume deserves mention in passing. It affords additional proof of that tendency toward emphasis of environmental influences in history to which I have heretofore adverted at some length.¹ Thus the main purpose in the second book (p. 75) is "to bring out clearly the connection of the national character of a people with the soil upon which it lives;" or again (p. 226) to seize the "unparalleled opportunity" for proving the "causal connection between soil and people." In places, it must be confessed, traces of senility appear in the absurd development of this theorem; as for example (p. 84) where at great length the story of Cain and Abel, the former typefying agriculture, the other personating pastoral life, is laboriously developed into a general law of cultural progress. The work, with its interesting side-lights upon the origins of law, while but half finished at the author's death, marks the conclusion of a long life of marvellous intellectual activity.

WILLIAM Z. RIPLEY.

Law and Politics in the Middle Ages, with a Synoptic Table of Sources. By EDWARD JENKS, M.A., Reader in English Law in the University of Oxford. (New York: Henry Holt and Company. 1898. Pp. xiii, 352.)

THIS is a brilliant book, and it will be a perfect godsend to many a young student of legal history. It tries to do,—and, so far as exposition is concerned, in large measure succeeds in doing,—what Sir Henry Maine did in so masterly a manner: light up the forest of technical detail with a few great generalizations, and make even the forms of legal procedure illustrate social evolution. Fifteen years have passed since the last of Maine's notable books, the *Early Law and Custom*, was given to the world. During the interval, Seebohm, Maitland, and Round have made very large additions to our knowledge of early English institutions; while with Brunner and Schröder, Viollet and Esmein coming to be familiar names to English and American students, a beginning has been made in the direction of a Comparative Jurisprudence worthy of the name. Yet if the older generation of law students troubled themselves too little about history, the present generation are in some danger of being overwhelmed by the multiplicity of historical particulars commended to their attention. There might seem to be room for a new venture in generalization; and Mr. Jenks, with an experience unusually wide for a comparatively young writer,—including as it does personal observation of the workings of Aus-

¹ *Political Science Quarterly*, X. 636-655.